IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1539 of 2001

to

FIRST APPEAL No 1574 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SP. LAND ACQUISITION OFFICER

Versus

MANUBHAI BAPULAL

Appearance:
Ms.R.V.Acharya, learned AGP for the appellants.
MR PRASHANT MANKAD for Respondents.

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 04/04/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. The delay of 89 days in filing each of these Appeals under Sec.54 of the Land Acquisition Act read with Sec.96 of the Civil Procedure Code was condoned on 29.3.2001 by the orders passed in the concerned Civil Applications seeking condonation of delay.

2. Admit. Issue Notice. Mr. Prashant Mankad waives service of notice of admission on behalf of respondents. On the request of both the sides, the matters are taken up for final disposal right today.

3. This group of 36 Appeals is directed against the judgment and order dated 31.3.99 passed by the 5th Joint Civil Judge (S.D.), Vadodara in Land Reference Cases Nos.1305 to 1340 of 1992.

4. The lands of Village Timbavara, Taluka Sihor, District Vadodara were sought to be acquired for the purpose of Narmada Canal. For that purpose, Notifications under Sections 4 and 6 were issued on 22.12.88 and 21.9.89 in case No.35/88, on 19.7.88 and 6.6.89 in case No.34/88 and on 27.10.88 and 19.9.89 in case No.33/88 respectively. These three Land Acquisition matters were decided by the Land Acquisition Officer, who determined the rate of compensation at Rs.3.75 Ps. per sq.mt., by the award which was declared on 28.1.91.The claimants felt dissatisfied and took the matters for reference under Sec.18 of the Land Acquisition Act. The Reference Court has now decided these Reference Cases by a common judgment and order as aforesaid and has determined the rate of compensation payable at Rs.10/-per sq.mt. It appears from the reading of this common judgment and order that the Reference Court has relied upon Judgment Exh.11 wherein the Notification under Sec.4 has been issued on 21.10.89 and the rate of compensation was determined to be Rs.13.97 Ps. per sq.mt. for the lands of the same village. The village in both the cases being the same and there being the clear evidence that not only the lands belong to the same village and that the lands are of the same nature and fertility and that they have been acquired for the same purpose, we find that the previous award has been correctly relied upon by the Reference Court while passing this award. The submission of the learned AGP is that the Assistant Talati, who had been examined at Exh.51, had described the geographical situation of village Timbavara and that according to him the selling price of the land per Hector

was Rs.25,000/-- to Rs.37,500/-- only and further that the concerned Agricultural Officer of Sardar Sarovar Nigam had been examined at Exh.59 and he had also stated that there was difference between the geographical situation of this land and the land for which Exh.11 had been delivered. According to the learned AGP, despite these depositions made by two witnesses at Exhs.51 and 59, the previous Award Exh.11 has been relied upon.

5. We have considered the depositions at Exhs.51 and 59 as pointed out by learned AGP and we find that these depositions are absolutely vague. Bald statements that geographical situation of this land is different than the land, which was concerned in the previous award Exh.11, do not lead anywhere in face of the material available on record to show that not only the lands belong to the same village but these lands are of same nature and fertility and there is no dispute that the lands in both the cases have been acquired for the same purpose. It is also not in dispute that the Notification under Sec.4 in case of previous award Exh.11 had been issued on 21.10.89 where the rate was determined at Rs.13.97 Ps., whereas in the instant case the Notification under Sec.4 had been issued in the year 1988 and for that purpose the necessary deduction had been made and the rate of compensation fixed in this case is only Rs.10/-- per sq.mtr., which by no norms can be said to be excessive or disproportionate, rather it appears to be just and adequate and does not warrant any interference by this Court.

6. There is no substance in these Appeals and all these 36 Appeals are hereby dismissed with no order as to costs.

(M.R.Calla,J)

(D.H.Waghela,J)